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Confederate Colville Tribes v. Walton (Colville Tribes)

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Response to findings of fact, conclusions of law and memorandum in support submitted by Department of Justice - substitute findings proposed, if fishery issue is to be resolved - alignment of Department of Justice as adversary - tribes must not be bound by conduct of Department of Justice

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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WASHINGTON

3 COLVILLE CONFEDERATED TRIBES, )  
4 Plaintiffs, )  
5 vs. )  
6 BOYD WALTON, JR., et ux, et al., )  
7 Defendants, )  
8 STATE OF WASHINGTON, )  
9 Defendant/Intervenor. )  
10 \_\_\_\_\_ )  
11 UNITED STATES OF AMERICA, )  
12 Plaintiff, )  
13 vs. )  
14 WILLIAM BOYD WALTON, et ux, et al., )  
15 and THE STATE OF WASHINGTON, )  
16 Defendants. )

Civil No. 3421 ✓

FILED IN THE  
U. S. DISTRICT COURT  
Eastern District of Washington

SEP 24 1982

J. R. FALLQUIST, Clerk  
Deputy

Civil No. 3831

17 RESPONSE TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
18 MEMORANDUM IN SUPPORT SUBMITTED BY DEPARTMENT OF JUSTICE

19 SUBSTITUTE FINDINGS PROPOSED, IF FISHERY ISSUE IS TO BE RESOLVED

20 ALIGNMENT OF DEPARTMENT OF JUSTICE AS ADVERSARY

21 TRIBES MUST NOT BE BOUND  
22 BY CONDUCT OF DEPARTMENT OF JUSTICE

23 There is being forced upon the Colville Confederated Tribes, over their  
24 strenuous objections, the unwanted, rejected and highly questionable represen-  
25 tation by the Department of Justice in the case of United States v. Walton.  
26 Objective of the Department of Justice -- violation of the Tribes' rights --  
27 is manifested from the background of the case of United States v. Walton.  
28 That case was initiated with the primary objective of seizing and taking from  
29 the Colville Confederated Tribes the jurisdiction, control, management and,  
30 indeed, title of the Tribes' rights to the use of water within the Colville  
31 Indian Reservation. Antecedent to the initiation of the case of United States  
32 v. Walton, the Department of Justice said this to Mr. Robert M. Sweeney, who

1 presently represents that Department here:

2 It is the position of the United States [the Depart-  
3 ment of Justice purports to be the United States]  
4 that the Secretary of the Interior has the exclusive  
5 jurisdiction to [a] control and [b] administer the  
6 allocation of waters on tribal, allotted and formerly  
7 allotted lands of the Colville Reservation pursuant  
8 to the authority vested in the Secretary under 25  
9 U.S.C. Sec. 381. 1/

10 In rejecting the Tribes' request for assistance against the State of  
11 Washington, which had intervened on behalf of the Defendants Waltons, the  
12 Department of Justice rationalized as follows:

13 We have decided, however, not to intervene because  
14 the complaint filed on behalf of the Tribes does  
15 not, in our opinion, raised [sic] the issue which  
16 must be addressed to obtain a judicial determination  
17 in this controversy i.e. the authority of the  
18 Secretary of the Interior to determine the alloca-  
19 tion of water on Indian Lands. 2/

20 It is a matter of record that the representatives of the Department of  
21 Justice have vigorously adhered to that erroneous concept. In clear violation  
22 of 25 U.S.C. 381, providing for a just and equal distribution of water "among  
23 the Indians" residing on the Colville Indian Reservation, the Justice Depart-  
24 ment has, in gross error, espoused the amendment of that Act by executive and  
25 judicial fiat to include non-Indians.

26 At all times, the Department of Justice has, in complete error, declared  
27 that the Secretary of Interior could allocate to the Defendants Waltons rights  
28 to the use of water. The Department's prayer for relief included this  
29 language:

30 Wherefore, plaintiff [Justice Department] prays  
31 judgment against defendants as follows:

32 (1) that the Defendants... Walton be enjoined  
from diverting water from the aforementioned un-  
named creek... in any amount of excess of that  
authorized by the Secretary of the Interior. 3/

---

33 1/ March 6, 1973 letter to Assistant United States Attorney, Spokane, from  
Assistant Attorney General, Land & Natural Resources Division, Depart-  
ment of Justice, Washington, D.C., at p. 1.

34 2/ Ibid., at p. 2.

35 3/ Complaint filed March 15, 1973, by the Department of Justice, p. 4.

1 Astounding aspect of that prayer for relief is that the Secretary of Interior  
2 has never promulgated rules and regulations pursuant to 25 U.S.C. 381. An  
3 additional astounding aspect in these proceedings is that the Department of  
4 Justice filed with this Court a statement that rules and regulations would be  
5 forthcoming in a short period of time -- that was in 1978.

6 The explicit language that the just and equal distribution of water  
7 must be "among the Indians" residing on the western reservations, coupled with  
8 fear of the power of the white man, who consistently disregards the law, has  
9 rendered the Secretary impotent. There have been no rules and regulations  
10 issued at this time.

11 Irrespective of the explicit language of 25 U.S.C. 381, the Department  
12 of Justice, in the Adair case, while simultaneously appearing in this Court  
13 purportedly on behalf of the Colville Confederated Tribes, took the following  
14 position:

15 Non-Indian purchasers are entitled to only as much  
16 water (1) as their Indian predecessors actually used  
17 for irrigation and domestic purposes when the land  
18 was conveyed, and (2) as the non-Indian purchaser  
19 'might with reasonable diligence place under irriga-  
tion.' \*\*\* After the 'reasonable diligence' period,  
the non-Indian purchasers are subject to the doctrine  
of prior appropriation. 4/

20 The Tribes are necessarily appalled that the gross amorality of the Department  
21 of Justice can be forced upon them under the circumstances. The Tribes'  
22 consternation is underscored by this sequence: On June 6, 1980, the Court of  
23 Appeals for the Ninth Circuit adopted the Tribes' position in regard to  
24 25 U.S.C. 381 -- later withdrawn -- and stated that:

25 Termination or diminution of Indian rights requires  
26 express legislation or a clear inference of Congres-  
27 sional intent gleaned from the surrounding circum-  
stances and legislative history. \*\*\* The Allotment  
28 Act does not provide for the transfer of Indian water  
rights to non-Indian allotment purchasers. \*\*\* There-  
fore, Congress could not have intended to provide for  
the transfer of reserved rights. 5/

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30 4/ United States v. Adair, 478 F.Supp. 336, 342 (U.S.D.C. Ore. 1979).

31 5/ See, withdrawn June 6, 1980 Opinion of the Court of Appeals for the  
32 Ninth Circuit in these proceedings.

1 In support of that conclusion, which is eminently correct, the Court of  
2 Appeals, in a footnote, said this:

3 25 U.S.C. §381 (1976). This provision implies  
4 that water rights were held in federal trust and  
not allotted. 6/

5 A year later, June 1, 1981, citing exactly the same authorities, the  
6 Court of Appeals withdrew its first opinion, reversed itself and stated that:

7 Upon careful consideration, we conclude this prin-  
8 ciple supports the proposition that an Indian  
allottee may sell his right to reserved water. 7/

9 As stressed by the Tribes' in their September 14, 1982 Analysis, the  
10 Court of Appeals gratuitously undertook, without evidence before it, to  
11 declare, in gross error, that waters in short supply can be allocated on the  
12 basis of irrigable acreage in the watershed. 8/ The Court of Appeals stated:

13 This follows from the provision for an equal and  
14 just distribution [see, 25 U.S.C. 381] of water  
needed for irrigation. 9/

15 Not only is it grossly improper to disregard the explicit language of  
16 25 U.S.C. 381, but the Tribes have offered unchallenged evidence into the  
17 record factually disclosing that the allocation of water on the basis of  
18 irrigable acreage is disastrous.

19 In view of the adoption -- almost verbatim -- by the Court of Appeals  
20 of the position taken by the Department of Justice in Adair and elsewhere  
21 throughout western United States, the impropriety of the Department of  
22 Justice appearing on behalf of the Colville Confederated Tribes is manifest  
23 beyond serious question. Most assuredly, in the appeals that are being  
24 generated here, the Tribes must be free to present their position to the  
25 Court of Appeals and bring to the attention of that Court the magnitude of  
26 the error expressed by it when, contrary to the express language of 25 U.S.C.

27

28 6/ Ibid., at note 13.

29 7/ Colville Confederated Tribes v. Walton, 647 F.2d 42, 50 (CA 9, 1981).  
30 cert. den., 102 S.Ct. 657 (1981).

31 8/ Ibid., at p. 51.

32 9/ Ibid.

1 381, it declared that Congress had authorized by that statute the transfer of  
2 Indian rights to non-Indians. 10/

3 This Court is deeply involved in the conflicts of interest giving rise  
4 to the gravely erroneous conclusions of the Court of Appeals. The on-going  
5 issues in the case of Kittitas v. Sunnyside in the Southern Division exempli-  
6 fies the all-encompassing conflicts of interest of the Department of Justice  
7 seeking to represent interests that are diametrically opposed one to the other.

8 In an historic understatement, the Court of Appeals for the Ninth Circuit  
9 in Adsit said this:

10 The United States and the Tribes argue that con-  
11 flicts among these interests would prevent the  
12 United States from representing them adequately.  
When the United States is faced with such a con-  
flict, its representation of Indians is inadequate. 11/

13 Here, the representation by the Department of Justice is not only inadequate,  
14 it is immoral.

15 Accordingly, the Colville Confederated Tribes pray this Court to grant  
16 an order declaring that the Department of Justice does not and cannot repre-  
17 sent the Tribes in these proceedings and that the Department's actions do not  
18 bind the Tribes.

19 TRIBES REJECT PRORATION OF FISHERY RIGHT --  
20 JUSTICE DEPARTMENT RAISES NO OBJECTION TO IT

21 In keeping with the aggressive efforts to force proration of short  
22 supplies of water upon the Indian tribes with the non-Indians, the Department  
23 of Justice apparently accepts that concept in regard to the rights of fishery.  
24 Reference respecting the issue is made to the Tribes' Motion for Clarification,  
25 dated April 2, 1982, in which the Tribes interposed strenuous objection to  
26 this Court's decision to force proration upon the Tribes in regard to their  
27

---

28 10/ See, September 14, 1982 Colville Confederated Tribes' Factual And Legal  
29 Analysis And Proposed Findings Of Fact And Conclusions Of Law, at p. 14,  
30 testimony of Charles P. Corke, General Hydrologist & Engineer for the  
Bureau of Indian Affairs, Department of Interior.

31 11/ Northern Cheyenne Tribe v. Adsit, et al., 668 F.2d 1080, 1089 (CA 9,  
32 1982), cert. pending. The issue of conflicts of interest does not  
appear to be presented to the Supreme Court

1 rights of fishery.

2 This Court, in its March 23, 1982 Order, under the heading "Method for  
3 Pro Rata Water Distribution," said this -- in plain and serious error:

4 Although the Ninth Circuit did not specify if  
5 water for the Lahontan Cutthroat Trout Fishery is  
6 subject to pro rata reduction in the same manner  
7 as the irrigation water, my study of the circuit  
8 opinion leads me to conclude that the fishery  
9 water is subject to a rateable reduction. 12/

10 Following that statement, this Court set up a hypothetical allocation between  
11 the Tribes and the Defendants Waltons. This Court then stated:

12 Since the Ninth Circuit held that water reserved  
13 to the Tribe for one purpose may be put to other  
14 purposes, the Tribe may apportion the 712.5 acre  
15 feet for whatever uses it desires. Thus, there  
16 would be sufficient water available for operation  
17 of the fishery should the Tribe elect to operate  
18 it. The Tribe's contention that proration of  
19 fishery water would force closure of the fishery  
20 is baseless. 13/

21 By their Motion For Clarification And For Other Relief, dated April 2,  
22 1982, the Tribes preserved their objection to the proration of their rights  
23 of fishery. There, the Tribes requested that the matter be disposed of on  
24 appeal by reason of the confiscatory nature of the ruling.

25 The Court of Appeals with specific terminology established the Tribes'  
26 rights in these words:

27 The right to water to establish and maintain the  
28 Omak Lake Fishery includes the right to sufficient  
29 water to permit natural spawning of the trout.  
30 When the Tribe has a vested property right in  
31 reserved water, it may use it in any lawful manner.  
32 As a result, subsequent acts making the historically  
intended use of the water unnecessary do not divest  
the Tribe of the right to the water. 14/

25 The principle of law is well stated by the Court of Appeals that the  
26 Tribes' property rights may not be confiscated for the benefit of Defendants

27  
28 12/ See, March 23, 1982 Order, at p. 3, lns. 26-30.

29 13/ Ibid., at p. 4, lns. 4-11. (Emphasis supplied).

30 14/ Colville Confederated Tribes v. Walton, 647 F.2d 42, 48 (CA 9, 1981),  
31 cert. den., 102 S.Ct. 657 (1981).

1 Waltons. This is a direct quote from that decision:

2 The general rule is that termination or diminution  
3 of Indian rights requires express legislation or a  
4 clear inference of Congressional intent gleaned  
from the surrounding circumstances and legislative  
history. 15/

5 Congress, most assuredly, has not declared that the Tribes' rights could be  
6 seized for the Defendants Waltons or that the Tribes would be forced to utilize  
7 their agricultural water to maintain the fishery.

8 This Court's finding is clearly erroneous, when it declares that:

9 The Tribe's contention that proration of fishery  
10 water would force closure of the fishery is base-  
less. 16/

11 There is not a scintilla of evidence in the record to support such a conclusion.

12 To the contrary, the evidence is explicit that the Defendants Waltons, in  
13 total disregard of the Tribes' rights of fishery, have not only seized the  
14 water and destroyed eggs that have been planted in the fishery, but have  
15 likewise, by inducing filth into the stream, brought about the destruction  
16 of the Lahontan Cutthroat Trout eggs in the bed of No Name Creek within the  
17 fishery. 17/

18 Filth from the Defendants Waltons' cattle and monopolization of all of  
19 the waters of No Name Creek in disregard of the Tribes' rights is the hall-  
20 mark of the arrogant disregard by the Defendants of the Tribes' rights.

21 The declaration by this Court that the Tribes' assertions are baseless  
22 is contrary to fact on two scores: (1) Quantity of water and (2) temperature  
23 of water. When the Defendants Waltons purposely dried up the fishery, these  
24 events transpired, as testified to on May 7, 1982, by Dr. David Koch:

25 Q ' What has been your experience during this  
26 period of the operation of the Lahontan Cutthroat  
27 Trout Fishery in regard to the quantity of water  
required... and... the temperature...?

28  
29 15/ Ibid., at p. 50.

30 16/ March 23, 1982 Order, at p. 4, lns. 4-11.

31 17/ See, Testimony of Dr. David Koch, Vol. VIII, at p. 1661, lns. 2-14;  
32 p. 1742, lns. 7-17; pp. 1673, et seq.; p. 1681; p. 1686, ln. 12;  
p. 1692, ln. 19 - p. 1693, ln. 18; p. 1720, ln. 17; p. 1721, ln. 2.



1 A Well, we have conducted egg incubating experi-  
2 ments in the gravels of No Name Creek; one that was  
3 prior to the renovation of the artificial spawning  
4 channel that was in place and working, and one which  
5 was in 1979, and in both events when these experi-  
ments were conducted the temperatures, ten days  
approximately after the initiation of the experiments,  
Mr. Walton began irrigating upstream and diverted  
the water, and our temperatures exceeded 60 degrees.

6 In both cases, in a matter of two days we just  
7 about eliminated our eggs that were incubating in  
the test.

8 Q Did it eliminate all the eggs?

9 A On the first occasion, yes, it did. On the second  
10 occasion, the temperatures exceeded 60 degrees for  
11 three days on those ten-day periods, and there was  
approximately, and I am recollecting now, approximately  
20 to 25 percent survival of those eggs at that time. 18/

12 If this Court intends, under the circumstances, to allocate rights to  
13 the use of water for the Colville Lahontan Cutthroat Trout Fishery, antecedent  
14 to the Tribes having an opportunity to have the matter reviewed by the Court  
15 of Appeals as to the reduction of their rights by proration with the Defendants  
16 Waltons, the Tribes have no other alternative but to suggest findings at this  
17 time. It is observed that the Department of Justice, in its findings, refers  
18 only to volume. That is error. As stated above, the issue of temperature is  
19 as important as volume of water -- rate of flow.

20 On that background, the Tribes request the entry of these findings. Not  
21 only is it essential that the Tribes have an adjudication as to the volume  
22 to which they are entitled for the Colville Lahontan Cutthroat Trout Fishery,  
23 but it is likewise essential that the finding be on the basis of rate of flow.  
24 The following findings are proposed:

25 1. The Colville Confederated Tribes traditionally relied upon  
26 fishing as a primary source of food. Fishing was likewise of  
27 religious importance to them.

28 2. The principal, historic fishing on the Columbia River has  
29 been destroyed and the Indians have established replacement  
30

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31 18/ See, T.R., May 7, 1982, at p. 578, ln. 2 - p. 579, ln. 1.  
32

1 fishing grounds in No Name Creek by the introduction into that  
2 stream and into Omak Lake of the Lahontan Cutthroat Trout, a  
3 non-indigenous fish.

4  
5 3. To maintain the Colville Lahontan Cutthroat Trout Fishery,  
6 the Court finds that it is essential to maintain temperatures  
7 in that fishery below 58 degrees, which is the spawning temper-  
8 ature requirement.

9  
10 4. To maintain the spawning temperature, the Court finds that  
11 there must be maintained in No Name Creek at the fishery one  
12 and one-half (1.5) cubic feet of flow per second of time from  
13 May 1st to June 1st of each spawning season, for a total of  
14 92.2 acre-feet.

15  
16 5. The Court likewise findings that, for a period from June  
17 1st to July 15th of each spawning season, it is necessary  
18 that the rate of flow be maintained at two (2) cubic feet of  
19 water per second, for a total in volume of 178.5 acre-feet.

20  
21 6. The Court additionally finds that, from July 15th to  
22 October 1st of each spawning season, the rate of flow must  
23 be one-half (.5) cubic feet per second, for a total of  
24 76.4 acre-feet, with an aggregate total of 347.1 acre-feet  
25 annually for 153 days.

#### 26 CONCLUSION OF LAW

27 This Court concludes, as a matter of law, that:

28 The Colville Confederated Tribes have prior and paramount  
29 rights residing in them to maintain the Colville Lahontan  
30 Cutthroat Trout Fishery at the flow rate set forth above, for  
31 a total of 347.1 acre-feet of water throughout the spawning  
32 season.

The Tribes reiterate that they would prefer to have a ruling from the Court of

1 Appeals prior to any attempt finally to decree that right. However, if this  
2 Court intends to proceed to final adjudication respecting that right, antece-  
3 dent to the ruling on the prorating issue, the Tribes request the adoption of  
4 the Findings of Fact and Conclusion of Law, as set forth above.

5  
6 THE TRIBES REJECT ALL OF THE FINDINGS OF FACT AND  
7 CONCLUSIONS OF LAW PROPOSED BY THE DEPARTMENT OF JUSTICE  
8 AND THE PRINCIPLES EXPRESSED IN THE MEMORANDUM IN SUPPORT

9 The Colville Confederated Tribes request this Court to reject the  
10 proposed Findings of Fact and Conclusions of Law submitted by the Department  
11 of Justice.

12 It is error for the Department of Justice to state that:

13 At the 1978 trial, the parties stipulated that by  
14 1978 approximately 102 acres had been placed under  
15 irrigation by the Defendants. 19/

16 The Colville Confederated Tribes have never agreed that the Defendants Waltons  
17 were irrigating 102 acres.

18 On November 7, 1978, the Colville Confederated Tribes filed their  
19 Motion to Amend Findings. There, among other things, the Tribes state:

20 In error, this Court finds that the '\*\*\* Waltons  
21 are presently irrigating 105 acres.' (Memorandum  
22 Opinion, page 3, lns. 16-18) There is no evidence  
23 to support the finding. 20/

24 The Tribes stress that the only data available disclose that there were a  
25 maximum of 69 acres that were irrigated in 1978. Additionally, the Tribes  
26 have always stressed that the Defendants Waltons wasted huge quantities of  
27 water and that the Defendants unconscionably waste water on their water-logged  
28 property.

29 Additionally, the Colville Confederated Tribes, in their Motion to  
30 Amend Findings, declared that:

31 The Colville Confederated Tribes disagree that  
32 they stipulated to the facts as presented in the  
Appendix to Memorandum Opinion. Moreover, until

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33 19/ Department of Justice Findings, p. 4, para. XI, lns. 20-22.

34 20/ November 7, 1978, "Motion To Amend Findings...." at p. 7, lns. 27-29.

1           this Court acts upon the objections to the findings  
2           it is impossible to state with certainty the facts  
          to which the Colvilles can stipulate. 21/

3   Although those objections were specific and definitive, this Court disregarded  
4   the objections, to which reference is made and many others, with the result  
5   that confusion exists -- for example, that "The allotments now owned by the  
6   Waltons passed out of Indian ownership in 1942." Other objections were made  
7   in regard to the declaration that there were 32 acres of land irrigated at  
8   the time title passed to the Defendants Waltons.

9           It is important that the Department of Justice, in serious error, is  
10   forcing upon the Tribes not only rejected representation, but likewise totally  
11   inadequate representation, all as set forth in these comments.

12           Additionally, it is error for the Department of Justice to request this  
13   Court to find that:

14           The testimony introduced at trial, although specu-  
15   lative suggested that approximately 105 acres are  
          currently irrigated by the Waltons. 22/

16   Further, it is error to state that:

17           The testimony introduced at trial reasonably  
18   establishes that approximately 155 to 170 acres  
19   contained in former allotment Nos. 525, 3371 and  
          894 can be irrigated to some extent. 23/

20           As set forth in the Tribes' Response to the Defendants Waltons' Post-  
21   Hearing Memorandum, the Defendants Waltons, through gross misrepresentation,  
22   asserted that they had irrigated 155 acres. 24/

23           It is also to be observed that the Department of Justice prepared a  
24   soil survey utilizing the services of one Harvey from the Bureau of Indian  
25   Affairs. The evidence offered in the record by the Colville Confederated  
26   Tribes, all as reviewed in the Tribes' Response to the Defendants Waltons,  
27   filed simultaneously with this Response to the Department of Justice, proves

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28  
29   21/   Ibid., at p. 8, lns. 11-14.

30   22/   Department of Justice Findings, p. 5, para. XII, lns. 1-2.

31   23/   Ibid., at p. 5, para. XIII, lns. 6-8.

32   24/   See, Tribes' Response To Defendants Waltons' Post-Hearing Memorandum,  
          dated September 23, 1982, at pp. 5, et seq.; pp. 8, et seq.

1 conclusively that the vast preponderance of the lands in Allotments 2371,  
2 894 and 525 is waterlogged and is not irrigable. 25/

3 It is unconscionable to saddle the Colville Confederated Tribes not only  
4 with the obligation of defending themselves against the State of Washington,  
5 which has been forced out of the litigation, and the Defendants Waltons, but  
6 likewise to be irreparably damaged by the Department of Justice in these  
7 proceedings.

8 It is stated in Conclusion of Law III, filed by the Department of  
9 Justice, as follows:

10 Assuming the initial conveyances of former allot-  
11 ments 525, 894 and 2371 included the allottees'  
12 reserved water rights, the Defendants carried the  
13 burden of proving (1) the amount of water applied  
14 with reasonable diligence to irrigate the former  
allotments by the original non-Indian purchaser  
and (2) the amount of such water maintained in  
continuous use up to 1948, the year the Defendants  
acquired the former allotments. 26/

15 The Tribes have been informally advised that the word "carried" is an error.  
16 The fact remains that the use of the word "carried" in this context constitutes  
17 a threat to the Tribes and the Department of Justice should file a correction  
18 with this Court.

19 As in Adair, the Department of Justice, contrary to the law as perceived  
20 by the Tribes, supports the concept that Indian allottee's rights are trans-  
21 ferable. That conclusion is manifestly the result of the conflicts of interest  
22 that pervade all of the Justice Department's activities. The Department of  
23 Justice simultaneously purports to represent the Secretary of Interior, who  
24 administers largely non-Indian irrigation projects on Indian reservations.  
25 Thus it is to the great advantage of the Department of Justice and the  
26 Department of Interior to espouse the misconstruction of 25 U.S.C. 381 and  
27 award, illegally, rights to non-Indians, all as reviewed above.

28

29

30 25/ Ibid., at pp. 10, et seq.

31 26/ Department of Justice Findings, at p. 7, para. III, lns. 1-7.

32

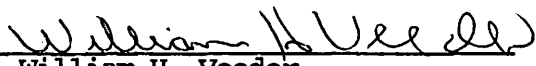
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CONCLUSION

If the Colville Confederated Tribes are to be protected against grave losses stemming from the conduct of the Department of Justice, it is imperative that the Tribes' Motion to have the Department of Justice aligned as an adversary be granted. 27/

Additionally, if the Court acts in regard to the Colville Lahontan Cutthroat Trout Fishery, it is requested that it adopt the findings and conclusions, as prepared by the Tribes.

RESPECTFULLY SUBMITTED THIS 23<sup>rd</sup> DAY OF SEPTEMBER 1982.

  
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27/ See, Tribes' Motion to Align the United States as an Adversary, March 8, 1982.